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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-949]

### **Certain Audio Processing Hardware and Software and Products Containing Same: Commission Decision Not to Review an Initial Determination Terminating Dell Inc.; and Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 40) terminating the investigation on the basis of withdrawal of the complainant as to the last remaining respondent, Dell Inc. ("Dell") of Round Rock, Texas.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be

obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 18, 2015, based on a complaint filed by Andrea Electronics Corp. ("Andrea") of Bohemia, New York. 80 FR 14,159 (Mar. 18, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. section 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio processing hardware and software and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,825,898 ("the '898 patent"); 6,483,923 ("the '923 patent"); 6,049,607 ("the '607 patent"); 6,363,345 ("the '345 patent"); and 6,377,637 ("the '637 patent"). The complaint further alleges that an industry in the United States exists as required by 19 U.S.C. 1337(a)(2). The notice of investigation named Dell and the following 12 respondents: Acer Inc. of New Taipei City, Taiwan; Acer America Corp. of San Jose, California (collectively, "Acer"); ASUSTeK Computer Inc. of Taipei, Taiwan; ASUS Computer International of Fremont, California (collectively, "ASUS"); Hewlett Packard Co. ("HP") of Palo Alto, California; Lenovo Holding Co., Inc. and Lenovo (United States) Inc. (collectively, "Lenovo"), both of Morrisville, North Carolina; Lenovo Group Ltd. of Beijing, China; Toshiba Corp. of Tokyo, Japan; Toshiba America Information Systems, Inc. (collectively, "Toshiba") of Irvine, California; Toshiba America, Inc. of New York City, New York; and Realtek Semiconductor Corp. ("Realtek") of Hsinchu, Taiwan. Also, intervenors Waves Audio Ltd. ("Waves") of Tel Aviv, Israel and Conexant Systems Inc. ("Conexant") of Irvine, California were subsequently added to the investigation. The Office of Unfair Import Investigations is a party in this investigation. The 12 other respondents and the two intervenors, as detailed below, have been terminated from the

investigation based on settlement or stipulation.

On July 13, 2015, the Commission determined not to review an ID finding that Andre has standing to bring the complaint in this investigation and to deny respondents' motion for oral argument. On May 1, 2015, the Commission determined not to review two IDs (Order Nos. 4, 5) granting motions of Andrea terminating the investigation as to Lenovo Group Ltd. and Toshiba America, Inc., respectively, based on stipulation. On December 8, 2015, the Commission determined not to review an ID (Order No. 23) granting a joint motion of Andrea and Realtek terminating the investigation as to Realtek based on a settlement agreement and a patent license agreement. On December 21, 2015, the Commission determined not to review an ID (Order No. 24) granting a joint motion of Andrea and Acer terminating the investigation as to Acer based on a settlement agreement and a patent license agreement. On January 5, 2016, the Commission determined not to review two IDs (Order Nos. 25, 26) granting a motion of Andrea to terminate the investigation as to all infringement allegations relating to the '637 patent; the '898 patent; the '923 patent; claims 4-11, 18-20, 22, and 39-46 of the '345 patent; and claims 5-7, 9-12, 29-31, and 33-37 of the '607 patent. On February 3, 2016, the Commission determined not to review an ID (Order No. 30) granting a joint motion of Andrea and HP terminating the investigation as to HP based on a settlement agreement and a patent license agreement. On March 4, 2016, the Commission determined not to review an ID (Order No. 33) granting a joint motion of Andrea and ASUS terminating the investigation as to ASUS based on a settlement agreement and a patent license agreement. On March 17, 2016, the Commission determined not to review an ID (Order No. 36) granting a joint motion of Andrea and Lenovo terminating the investigation as to Lenovo based on a settlement agreement and a patent license agreement. On April 5, 2016, the

Commission determined not to review an ID (Order No. 37) granting a joint motion of Andrea and Conexant terminating the investigation as to Conexant based on a settlement agreement and a patent license agreement. On April 19, 2016, the Commission determined not to review an ID (Order No. 38) granting a joint motion of Andrea and Waves terminating the investigation as to Waves based on a settlement agreement and a patent license agreement. On the same date, the Commission determined not to review an ID (Order No. 39) granting a joint motion of Andrea and Toshiba terminating the investigation as to Toshiba based on a settlement agreement.

On March 25, 2016, Andrea filed a motion to terminate the last remaining respondent, Dell, from the investigation on the basis of withdrawal of the complaint as to Dell. Andrea affirmed that there are no agreements, written or oral, express or implied, between itself and Dell concerning the subject matter of the investigation. None of the other parties opposed the motion.

On April 6, 2016, the ALJ granted the motion as an ID. The ALJ found no information indicating that termination of the investigation with respect to Dell on the basis of the withdrawal of the complaint is contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. The ALJ also terminated the investigation. Order No. 40 at 2.

No petitions for review of the ID were filed. The Commission has determined not to review the subject ID, and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. section 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Dated: May 2, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

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